

**PLANNED DEVELOPMENT PERMIT**

<b>FILE NO.</b>	<b>PD09-039</b>
<b>LOCATION OF PROPERTY</b>	<b>Southwest corner of S. First Street and Edwards Avenue</b>
<b>ZONING DISTRICT</b>	<b>A(PD) Planned Development</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Medium High Density Residential (MHDR 12-25 DU/AC)</b>
<b>PROPOSED USE</b>	<b>Planned Development Permit to demolish five existing structures, relocate one National Register-eligible single-family residence, and allow up to 50 attached residential units and approximately 5,350 square feet of commercial/retail on a 1.09 gross acre site Planned</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Use of MND</b>
<b>APPLICANT / ADDRESS</b>	<b>Dean and David Hanson 13389 Folsom Blvd. PMB 300-208 Folsom, CA 95630</b>

**FACTS**

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium High Density Residential (12-25 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The proposed residential density is 46.8 DU/AC.
3. The site is zoned A(PD) Planned Development.
4. The subject lot contains approximately 1.09 acres and is located on the southwest corner of S. First Street and Edwards Avenue.
5. The subject site is currently developed with five residences and one commercial structure.
6. The project proposes the development of up to 50 attached residential units, one relocated single-family house and 5,350 square feet of commercial retail uses on the site.
7. The subject site is surrounded by a residential neighborhood directly to the west and commercial development to the north, south, and east along S. First Street.

8. The proposed project will meet all of the development regulations set forth in Planned Development Zoning, File No. PDC08-035, including but not limited to heights, setbacks, densities, open space, parking and environmental mitigation.
9. Six ordinance sized trees are proposed for removal as part of the subject development.
10. The environmental impacts of this project were addressed by a Mitigated Negative Declaration adopted on March 24, 2009 for the previously approved PD Zoning (File No. PDC08-035) The major environmental issues addressed were cultural resources; noise related impacts due to construction noise and existing noise levels; and traffic. The Mitigated Negative Declaration included appropriate mitigation to reduce these potential environmental impacts to less than significant levels.

The Director of Planning has considered all of the following criteria in evaluating the proposed demolition.

1. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition in that the structures are in dilapidated condition and provide an attractive nuisance and hazard to the neighborhood.
2. The failure to approve the permit would jeopardize public health, safety or welfare.
3. The approval of the permit should maintain the supply of existing housing stock in the City of San José.
4. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible in that the structures have been evaluated and the National Register eligible structure(s) will be preserved while the Structure(s) of Merit will be offered for relocation or salvage.
5. Rehabilitation or reuse of the existing buildings would not be feasible.
6. The approval of the demolition of the buildings should facilitate a project that is compatible with the surrounding neighborhood. The General Plan Land Use/Transportation Diagram designation encourages a higher density residential development compatible with the existing residential neighborhood.
7. The demolition of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

## **FINDINGS**

The Director of Planning concludes and finds, based on the analysis of the above facts, that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
  - a. The proposed development conforms to the General Plan Land Use/Transportation Diagram designation of Medium High Density Residential (12-25 DU/AC) for the site through the use of an Alternate Discretionary Use Policy (Residential Density Increases Along Major Transportation Corridors Affordable Housing), and is compatible with the surrounding area.

- b. The project furthers the Growth Management Major Strategy, as the change will facilitate infill development that is within an urban neighborhood south of the downtown area.
  - c. The project furthers the Housing Major Strategy, as the project will maximize the infill housing opportunity well placed to take advantage of commercial services, transit opportunities and other amenities, in a form that is compatible with the surrounding development pattern.
  - d. Consistent architectural themes have been integrated into the design.
  - e. The building scale does not overwhelm the neighborhood.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
  - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:
  - a. The architectural elements of the proposed project are integrated into a harmonious whole.
  - b. On-site structures are compatible in terms of height and massing.
  - c. The project conforms to the Residential Design Guidelines.
4. The environmental impacts of the project including, but not limited to cultural resources; noise related impacts due to construction noise and existing noise levels; and which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that:
  - a. The environmental impacts of this project were addressed by a Mitigated Negative Declaration adopted on March 24, 1009 for the previously approved PD Zoning (File No. PDC08-035). The Mitigated Negative Declaration included appropriate mitigation to reduce these potential environmental impacts to less than significant levels.
  - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
5. The location of the ordinance size trees with respect to the proposed project unreasonably restricts the economic development of the parcel in question.

Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:

- a. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) and Chapter 20.100 of the San José Municipal Code, the subject Planned Development Permit.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the construction of buildings has not commenced pursuant to and in accordance with the provision of this Permit. However, should the requirement of Condition No. 8 below not occur, said permit shall expire after two years. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval, may be imposed by the approval authority.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, "South First Street Apartments", dated June 15, 2010, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).

6. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Adjustment Requirement.** The applicant shall submit and have approved a Planned Development Permit Adjustment to provide a minimum 40 square foot private open space for all units in conformance with the development regulations for this Planned Development Zoning. Said Adjustment shall be submitted and approved within two years after approval of this permit or said permit shall become null and void.
9. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
10. **Conformance with Previously Approved Zoning and Environmental Clearance.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning (File no. PDC08-035) remain in effect.
11. **Geology and Soils.** The following measures have been included as part of the project to avoid impacts resulting from implementation of the project.
  - a. Geologic conditions on the project site will require that the proposed structures be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4. The potential for geologic and soils impacts resulting from conditions on the site can be mitigated by utilizing standard engineering and construction techniques. With incorporation of these measures the project will not expose people or property to significant impacts associated with the geologic conditions of the site including seismic ground shaking, liquefaction, or expansive soils
  - b. The applicant shall submit a soil investigation report addressing the potential hazard of liquefaction to the City Geologist for review and approval prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
  - c. Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.
  - d. All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
  - e. Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
  - f. Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.
12. **Construction Air Quality.** The following BAAQMD feasible construction dust control measures shall be implemented to reduce construction related air quality impacts to a less-

than-significant level. The following mitigation would be implemented during all phases of construction on the project site.

- a. Water all active construction areas at least twice daily or as often as need to control dust emissions.
- b. Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- c. Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- d. Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- e. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- f. Replant vegetation in disturbed areas as quickly as possible.
- g. If demolition debris is processed on-site (i.e., ground or crushed), additional dust control measures will be utilized to avoid all visible dust plumes leaving the site.

**13. Biological Resources.** The following project specific mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory bird's nests.

- a. Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February through August.
- b. If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.
- c. All trees that are to be removed shall be replaced at the ratios identified in the Planned Development Rezoning Environmental Mitigation Development Standards.
- d. In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented to the satisfaction of the Director of Planning, Building, and Code Enforcement.

- i The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
  - ii An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement.
  - iii A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.
- e. A certified arborist will establish a tree protection zone for each of the street trees prior to start of construction. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modification to the tree protection zone must be approved and monitored by the consulting arborist.
  - f. Prior to issuance of demolition permits, all trees to be retained will be fenced in accordance to the established tree protection zone. Fences shall be 6 ft. chain link or equivalent as approved by the consulting arborist. The fences will remain on-site until all grading and construction is completed.
  - g. Any root pruning or canopy pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
  - h. Supplemental irrigation shall be applied as determined by the consulting arborist.
  - i. If injury should occur to any tree during construction, work will stop in the area around the tree and the damage shall be evaluated by the consulting arborist so that appropriate treatments can be applied.
  - j. No materials or liquids of any kind can be dumped or stored within the designated tree protection zones.
14. **Cultural Resources.** The following standard measures are included in the project as conditions of approval to address the loss of buildings identified as eligible of Structure of Merit status.
- a. Historic Report and Archival Photo Documentation: 35mm photography of structures and sites eligible for listing on the City of San José Historic Resources Inventory as Structures of Merit. Photographs will consist of selected black and white views of the building to the following standards.
    - i Cover Sheet – The documentation shall include a cover sheet identifying the photographer, providing the address of the building, common or historic name of the building, date of construction, date of photographs, and descriptions of the photographs.
    - ii A bond copy of the Historic Report for the building.

- iii View – Perspective view: front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
  - iv Other Technical Considerations – The camera used must be a 35 mm with black and white film (tri-X, Plus-x, or T-Max is recommended). No soft focus lenses are allowed. Lenses may include normal focus length, wide angle, and telephoto. The photographer has a choice of filters, but use of a polar screen is encouraged. Sunlight is preferred for exteriors, especially the front façade. Light overcast days, however, may provide more satisfactory lighting for some structures. Finally, all areas of the photograph must be in sharp focus
- b. Submission of Photo Documentation: Two copies of the documentation, including the original prints and negatives, shall be submitted to the Historic Preservation Officer for approval and distribution to History San José and the Northwest Information Center at Sonoma State University. Digital photos may be provided as a supplement to, but not in place of, the above referenced photo documentation. Digital photography must be recorded on a CD and shall be submitted with the other documentation. The photo documentation shall be accompanied by a transmittal stating that the documentation is submitted in fulfillment of standard measures for the loss of the historic resources which shall be named and the address stated.
- c. Professional Qualifications: The documentation is to be conducted by a qualified consultant meeting the professional qualifications standards of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.
- d. Relocation: Prior to issuance of Public Works clearance, the structure(s) shall be advertised for relocation and an amount equal to the cost of demolition shall be offered to parties interested in relocation. The project applicant shall provide evidence that an advertisement has been placed in a newspaper of general circulation, posted on a website, and posted at the site for a period of no less than 30 days.
- e. Salvage: If relocation is not successful, prior to issuance of Public Works Clearance, the structure and site shall be retained and advertised for salvage to salvage companies facilitating the reuse of historic building materials in conformance with the City's Construction and Demolition Diversion Deposit (CDDD) program by placing an advertisement in a newspaper of general circulation, posting on a website, and onsite posting for 30 days. :
- f. The project will incorporate the use of historic names and educational photographs and text to the satisfaction of the Director of Planning.
- g. Implementation of the following mitigation measures will reduce potential impacts to significant cultural resources to less than significant levels:
- i Relocate the house located at 985 South First Street to Edwards Avenue, eligible for the National Register of Historic Places in conformance with the Secretary of Interior Standards, as noted on approved plans.
  - ii Prior to approval of the Planned Development Permit, provide evidence that the HABS documentation has been submitted to History San José



(Attention: Jim Reed, History San José, 1650 Senter Road, San José, CA 95112-2599, (408) 287-2290), shall be submitted to the Historic Preservation Officer.

- h. In compliance with state law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event human remains are encountered during grading and construction, all work within 25 feet of the find will stop and the Santa Clara County Coroner's office will be notified. If the remains are determined to be Native American, the Coroner would notify the Native American Heritage Commission to identify the "Most Likely Descendant" (MLD). The City, in consultation with the MLD, would then prepare a plan for treatment, study and reinterment of the remains.
  - i. In compliance with state law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event that historical artifacts are found, all work within 50 feet of the find will stop and a qualified archaeologist will examine the find. All significant artifacts and samples recovered during construction would be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility. The archaeologist must then submit a plan for evaluation of the resource to the City of San José Department of Planning, Building and Code Enforcement for approval. If the evaluation of the resource concludes that the found resource is eligible for the California Register of Historic Resources, a mitigation plan must be submitted to the City of San José Department of Planning, Building and Code Enforcement for approval. The mitigation plan must be completed before earthmoving or construction activities can recommence within the designated resource area.
15. **Hazardous Materials.** The project proposes to implement the following mitigation measures:
- a. If the USTs are still located on-site, they will be removed in accordance with current regulations. Once the USTs are removed, soil sampling will be completed by qualified personnel to determine if soil contamination has occurred directly under the tanks.
  - b. If soil contamination is found under the USTs (based on soil sampling done after removal of the USTs), the following measures will be implemented as necessary to remediate contamination issues associated with the USTs.
  - c. A soil management plan (SMP) will be prepared to address the handling of impacted soils during project development. In addition, a health and safety plan (HSP) will be prepared addressing worker safety, including the rationale for selection of personal protective equipment (PPE) for site workers during site development and during any post-development construction activities (such as underground utility repairs, where workers might expose contaminated materials). The HSP will also include a discussion of health risks associated with the contaminants identified at the site. Furthermore, a Sampling and Analysis plan will be prepared with provisions for collecting post-demolition soil samples in previously inaccessible areas to confirm the extent of soil contamination under the pre-existing buildings. The SMP, HSP, and Sampling and Analysis Plan will be prepared and submitted to the City of San José for approval prior to issuance of grading permits.

- i The applicant will have a Remedial Action Work Plan (RAWP) prepared by a qualified hazardous materials consultant prior to issuance of grading permits that will detail the remediation work left to be done on-site and the timing of the work. The RAWP will be submitted to the RWQCB for approval.
  - ii Upon approval of the RAWP by the RWQCB, the RAWP will be submitted to the City of San José Department of Planning, Building and Code Enforcement for review and approval.
  - iii After the RAWP has been fully implemented, appropriate documentation will be submitted to the RWQCB for issuance of a No Further Action letter. A copy of the No Further Action letter must be filed with the City of San José Department of Planning, Building and Code Enforcement prior to issuance of a building permit.
- d. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials and/or lead-based paint.
- e. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- f. All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.
- g. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- h. Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements.
16. **Hydrology.** The following mitigation measures, based on RWQCB Best Management Practices and City policy, are included in the project to ensure compliance with NPDES permit requirements to reduce construction-related water quality impacts.
- a. During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
  - b. During construction, earthmoving or other dust-producing activities will be suspended during periods of high winds.
  - c. During construction, all exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.

- d. During construction, stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- e. During construction, all trucks hauling soil, sand, and other loose materials will be covered and/or all trucks will be required to maintain at least two feet of freeboard.
- f. During construction, all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).
- g. During construction, vegetation in disturbed areas will be replanted as quickly as possible.
- h. Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit administered by the Regional Board and will prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the amendment to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
  - i Preclude non-stormwater discharges to the stormwater system.
  - ii Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
  - iii Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
  - iv Perform monitoring of discharges to the stormwater system.
- i. The developer will submit a copy of the draft SWPPP to the City of San José Department of Public Works for review and approval prior to construction of the project site. The certified SWPPP will be posted at the site and will be updated to reflect current site conditions.
- j. The developer will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- k. The developer will restrict grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season.
- l. When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of San José. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site.
- m. All post-construction TCMs will be installed, operated, and maintained by qualified personnel. On-site inlets will be stenciled in conformance with City

requirements and cleaned out a minimum of once per year, prior to the wet season.

- n. The property owner/site manager will keep a maintenance and inspection schedule and record to ensure that the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times.

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**17. Noise.** The following measures are included in the project to reduce long-term noise impacts.

- a. The mechanical equipment will be located on the rooftop of the proposed building and be shielded from the residential neighborhood by noise control rooftop screens or a full enclosure.
- b. The final design of the mechanical equipment plans will be reviewed by an acoustical specialist to verify that the sound of the equipment will be attenuated to below 55 dBA DNL at the eastern property line. The mechanical equipment plan and report by the acoustical specialist will be submitted to the Director of Planning, Building and Code Enforcement for approval prior to issuance of installation permits.
- c. Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way should be restricted to the hours of 7:00 AM and 7:00 PM, Monday through Friday. No construction activities shall occur on weekends or holidays because the project site is within 500 feet of a residential area.
- d. Equip all internal combustion engine driven equipment with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- e. Locate stationary noise generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- f. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- g. The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- h. Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.
- i. Control noise from construction workers radios so they are not audible from the eastern property line.

**18. Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of

the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation:** An in-house traffic analysis was performed for this project. The proposed use generations 40 AM and 48 PM peak hour trips. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3). Therefore, a determination of a negative declaration can be made with respect to traffic impacts.
- c. **Grading/Geology:**
  - i) A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - iii) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - iv) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control

measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.

- e. **Flood: Zone D** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
- f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- g. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
- h. **Undergrounding:**
  - i The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to South First Street prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2009 base fee is \$395 per linear foot of frontage and is subject to change every January 1st based on the Engineering News Record's 20 City Average Cost Index. . The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
  - ii The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to South First Street. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- i. **Street Improvements:**
  - i Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - ii Remove and replace broken or uplifted curb, gutter, and construct 10' sidewalk along project frontages.
  - iii The proposed storm main extension from project site to Willow Street shall be 15" RCP.
  - iv Close unused driveway cut(s).
  - v Proposed driveway width to be 26' conforming to City Standards.

- vi Install handicap ramps (2) with detectable warnings at opposite returns across Edwards Avenue.
  - vii An encroachment permit from Cal Trans is required for all work performed along South 1<sup>st</sup> St.
  - viii Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
  - j. **SNI:** This project is located within the Washington SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
  - k. **Sanitary:** Sanitary lateral on First Street shall be 6" VCP.
  - l. **Storm:** Applicant will be required to extend Storm main from Willow Street to the North in order to serve this project.
  - m. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
  - n. **Street Trees:**
    - i The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
    - ii Contact the City Arborist at (408) 277-2756 for the designated street tree.
    - iii Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
  - c. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
14. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Park Impact Fees.* The applicant shall provide evidence to the Chief Building Official that the applicable Park Impact Fees, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San José Municipal Code), have been paid to the satisfaction of the Director of Public Works.
  - b. *Construction Plans.* This permit file number PD09-039 shall be printed on all construction plans submitted to the Building Division.

- c. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - d. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - e. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
  - f. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
  - g. *Tentative Map.* Prior to the issuance of a Building Permit, the developer shall secure a Tentative Map.
15. **Green Building.** Prior to the issuance of any shell or complete building permits after September 8, 2009 for the construction of buildings approved through the scope of this *Planned Development Permit*, the applicant shall pay a Green Building Refundable Deposit. The project must receive the minimum green building certification of LEED Certified. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
16. **Fire Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
17. **Fire Flow.** Required fire flow for the site is as approved in writing by the Fire Chief.
18. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
19. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San Jose Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
19. **Trees.** The removal of six ordinance size trees is included with the approval of this permit. Prior to commencement of and during removal of any ordinance-size tree pursuant to this



Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:

- a. The copy of the permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the permit is readable from the public sidewalk or right-of-way; or
  - b. If the site does not have a public street frontage, a copy of the permit shall be posted at a location where the permit is readable from a common access driveway or roadway.
  - c. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this permit, the applicant shall maintain the validated permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
20. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
21. **Storm Water Stenciling.** All drain inlets shall be labeled “No Dumping—Flows to Bay.” Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
22. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
23. **Lighting.** On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy and shall use fully cut-off and fully shielded, Low-Pressure Sodium fixtures. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
24. **Fencing.** Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
25. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.

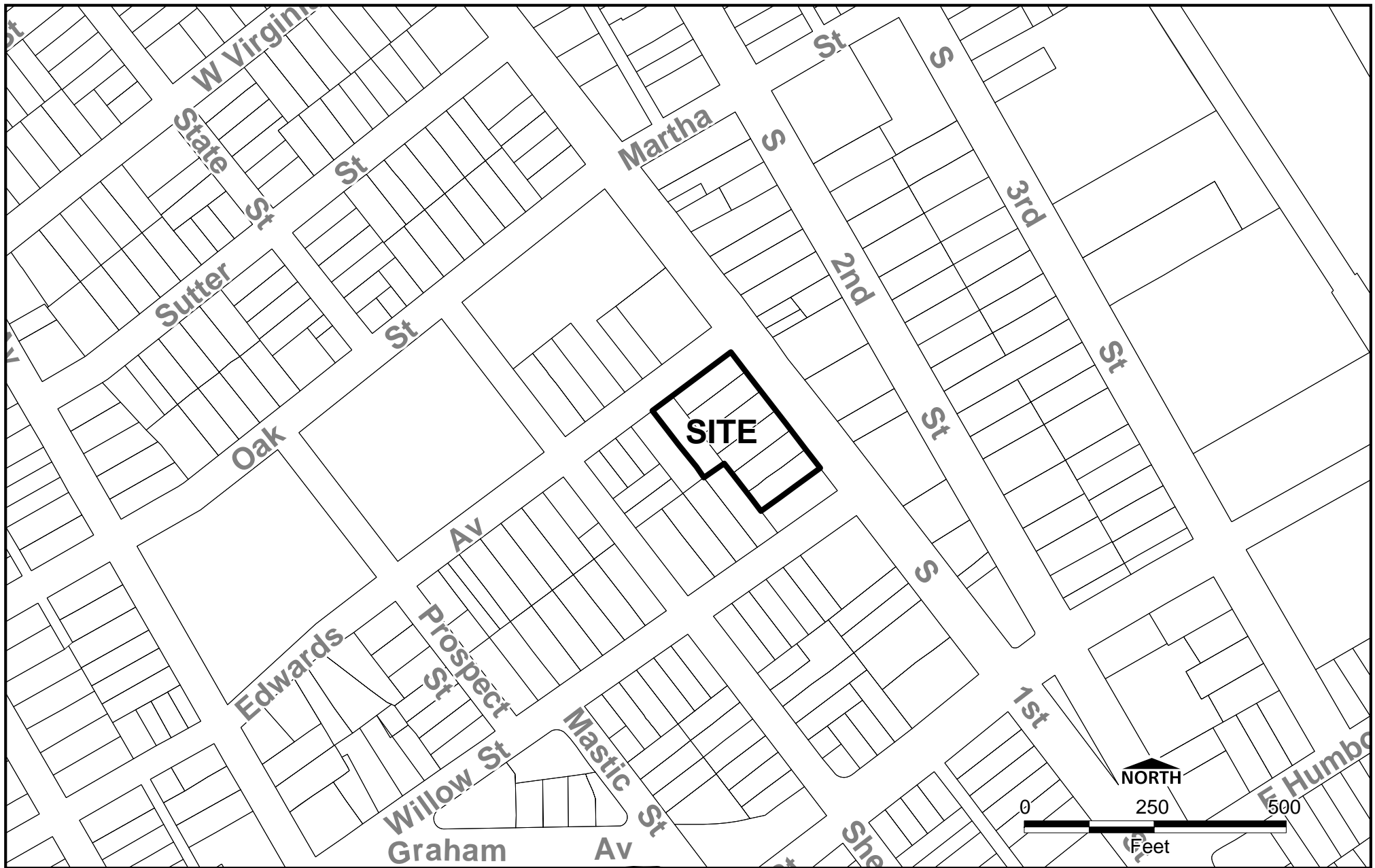
**APPROVED** and issued on this **25<sup>th</sup> day of June 2010.**

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Deputy

Cc: Kelly Melendez AIA, MaK Studio, 1663 Mission Street, Suite 501, San Francisco CA 94103

DRAFT



File No.: PD09-039

District: 3

## LOCATION MAP



Prepared by the Department of Planning,  
Building and Code Enforcement

11/23/2009